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Attorneys for Plaintiff UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,) No.: CR 05-00400 SI
Plaintiff,)
____ v. _____) STIPULATION AND [PROPOSED]
ANDRE BENARD,) ORDER EXCLUDING TIME
Defendant.) FROM SPEEDY TRIAL CALCULATION

With the agreement of the parties, the Court enters this Order excluding the time period from January 13, 2006 through February 10, 2006 under the Speedy Trial Act, 18 U.S.C. § 3161. The parties agree, and the Court finds and holds, as follows:

1. The Defendant is in custody serving a pre-existing state sentence of imprisonment.

The parties appeared before the Court on January 13, 2006, for a status hearing. The United States has provided the defense with a lab report on DNA testing of the firearm at issue in this case. Defense counsel requested time to consult with his own expert concerning the DNA test results, to obtain and review additional discovery materials relevant to the government's anticipated expert witness testimony concerning the DNA evidence, and to review certain materials obtained pursuant to defense subpoena.

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2. At the request of the parties, the Court set a further status hearing in this case for February 10, 2006, at 11:00 a.m., and excluded the intervening time period from the Speedy Trial Act calculation. This filing memorializes that exclusion of time.

3. The parties jointly request that the Court exclude the time period from January 13, 2006 through February 10, 2006 under the Speedy Trial Act. In light of the foregoing facts, the parties stipulate that the failure to grant the requested continuance would unreasonably deny the Defendant effective preparation of counsel taking into account the exercise of due diligence, that the ends of justice would be served by the Court excluding the proposed time period, and that these ends outweigh the best interest of the public and the Defendant in a speedy trial. 18 U.S.C. § 3161(h)(8)(A), (B)(iv).

SO STIPULATED.

DATED: January 17, 2006

/S/ MARK GOLDROSEN
MARK GOLDROSEN
Attorney for Defendant Andre Benard

DATED: January 13, 2006

/S/ EDWARD TORPOCO
EDWARD TORPOCO
Assistant United States Attorney

In light of the foregoing facts, and with the consent of the parties, the Court hereby orders that the period from January 13, 2006 through February 10, 2006 be excluded from the Speedy Trial Act calculation under 18 U.S.C. § 3161(h)(8)(A), (B)(iv).

PURSUANT TO STIPULATION, IT IS SO ORDERED.

DATED:

~~HON. SUSAN ILLSTON
United States District Judge~~

STIPULATION AND ORDER
CR 05-00400 SI

